

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-v-

**Case No. 09-CR-131
(USCA No. 10-2281)**

IVY TUCKER,

Defendant.

DECISION AND ORDER

Pro se Defendant, Ivy Tucker (“Tucker”) filed a notice of the appeal from this Court’s May 17, 2010, denial of his motion for a competency determination pursuant to 18 U.S.C. § 4241 and Rule 12.2 of the Federal Rules of Criminal Procedure. Tucker has filed a motion requesting that the record on appeal include the transcript of the May 17, 2010, hearing on his competency motion.

Rule 10(a)(2) of the Federal Rules of Appellate Procedure provides that the record on appeal includes “the transcript of the proceedings, if any.” To date, no transcript of the May 17, 2010, proceeding has been prepared. Having considered Tucker’s pro se status, the Court liberally construes his motion as requesting preparation of the hearing transcript, *see* Fed. R. App. P. 10(b)(1), and will determine whether he may obtain a transcript of that proceeding.

Section 753(f) of Title 28 of the United States Code provides in pertinent part:

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. § 3006A), . . . shall be paid by the United States out of moneys appropriated for those purposes.

As recently as of February 26, 2010, Tucker was found to be indigent for purposes of the Criminal Justice Act, 18 U.S.C. § 3006A. (Court-appointed counsel was representing him until her motion to withdraw as counsel was granted by the Court at the May 17, 2010, hearing; counsel continues as stand-by counsel under her court-appointment.) Furthermore, Tucker seeks the transcript of the May 17, 2010, hearing as a part of the criminal proceeding against him. Therefore, Tucker's motion for a transcript is **GRANTED**. The United States **MUST** pay for the transcript out of monies appropriated for that purpose. That transcript will be included in the record on appeal pursuant to Rule 10(a) of the Federal Rules of Appellate Procedure.

Dated at Milwaukee, Wisconsin, this 2nd day of June, 2010.

SO ORDERED,

s/ Rudolph T. Randa

HON. RUDOLPH T. RANDA
U.S. District Judge